v. *Medina,* 11 Allen (Mass.) 548, 87 Am. Dec. 733; *Foster* v. *Fidelity Safe Deposit Co.,* 264 Mo. 89, 174 S. W. 376, L. R. A. 1916A 655, Ann. Cas. 1917D 798.

The bailee acquires, by virtue of the bailment, an interest in the goods bailed that he can protect by appropriate action against wrongful interference. *Chamberlain* v. *West,* 37 Minn. 54, 33 N. W. 114; *Faulkner* v. *Brown,* 13 Wend. (N. Y.) 63; *Herries* v. *Bell,* 220 Mass. 243, 107 N. E. 944, Ann. Cas. 1917A 423.

When bailed goods are stolen by a stranger, in an indictment for larceny, ownership may be laid either in the bailor or bailee, and the bailee may have replevin or detinue, so as to have the goods for the bailor at the end of the bailment. *Hooper* v. *Miller,* 76 N. C. 402; *State* v. *O'Connell,* 144 Mo. 387, 46 S. W. 175; *State* v. *Philips,* 73 S. C. 236, 53 S. E. 370; *State* v. *Moore,* 101 Mo. 316, 14 S. W. 182.

The above principles seem to be sufficient to constitute a legal ground for an accusation of petit larceny by the bailee. Whether or not the felonious intent existed is a question of fact for the jury upon the trial of the accusation.

BILLS AND NOTES—CARRIERS—BANK DISCOUNTING A DRAFT WITH A BILL OF LADING ATTACHED NOT LIABLE FOR BREACH OF SELLER'S CONTRACT.—A draft with bill of lading attached drawn by a seller on the buyer for fruit shipped was discounted by a bank. The buyer, who is plaintiff in this action, accepted and paid the draft before examining the fruit, which upon examination was found defective. Whereupon the buyer claimed misrepresentation and breach of warranty, and brought action against seller and the bank, contending the bank was substituted by the acts of the parties for the original contracting party, and being in this position, was in equity bound to refund moneys collected on the draft as improperly held by it. *Held,* the bank is not liable. *Williams* v. *National Fruit Exchange* (Conn.), 111 Atl. 197.

There is no question but that a contracting party is liable for breach of warranty. The question here is how far the bank is responsible as a contracting party, and what is its relation to the drawee of the draft.

The courts of Alabama, Mississippi, Texas and North Carolina have held that a bank discounting a draft with a bill of lading attached is bound to refund the money collected on it to the drawee of the same, when the goods are not as represented in the bill of lading and the drawee has had no opportuity to examine them before he paid the draft. *Haas* v. *Citizens' Bank,* 144 Ala. 562, 39 So. 129, 1 L. R. A. (N. S.) 242, 113 Am. St. Rep. 61; *Landa* v. *Lattin,* 19 Tex. Civ. App. 246, 46 S. W. 48; *Searles* v. *Smith Grain Co.,* 80 Mass. 688, 32 So. 287; *Marks' Sons* v. *West Tennessee Grain Co.* (Miss.), 81 So. 162; *Citizens' Bank* v. *Harpeth National Bank* (Miss.), 82 So. 329; *Finch* v. *Gregg,* 126 N. C. 176, 35 S. E. 251, 49 L. R. A. 679. But all except the Mississippi Court have since reversed this doctrine. *Landa v. Lattin, supra,* was overruled in *Blaisdell Co.* v. *Citizens' National Bank,* 96 Tex. 626, 75 S. W. 292, 62 L. R. A. 968, and also in *Tradesmen's State Bank* v. *Ft. Worth Elevators Co.* (Tex. App.), 214 S. W. 656. *Haas* v. *Citi-*

zens' Bank, supra, was virtually overruled in *Cosmos Cotton Co.* v. *First National Bank,* 117 Ala. 392, 54 So. 621, 32 L. R. A. (N. S.) 1173, though the court attempted to distinguish them. *Finch* v. *Gregg, supra,* was overruled by *Mason* v. *Nelson,* 148 N. C. 492, 62 So. 625, though with strong dissent. The Mississippi case, *Searles* v. *Smith Grain Co., supra,* rested solely upon *Landa* v. *Lattin, supra,* which as seen, has now been overruled, and the later Mississippi Cases simply cited and followed the first one.

There are many cases holding the bank not liable, and they hold this on two separate grounds. Of these cases the majority hold the bank does not hold the money paid to it by the drawee of the draft improperly, as the bank is an innocent purchaser for value of the draft and by the law merchant is not liable even if the consideration between the drawer and drawee fail entirely. They further hold there is no condition in the drawee's acceptance of the draft that the goods shall correspond to the bill of lading but that his acceptance is absolute with regard to an innocent purchaser for value of the draft. *Central Mercantile Co.* v. *Oklahoma State Bank,* 83 Kan. 504, 112 Pac. 114, 33 L. R. A. (N. S.) 954; *Springs* v. *Hanover National Bank,* 209 N. Y. 224, 103 N. E. 156, 52 L. R. A. (N. S.) 241; *Guaranty Trust Co.* v. *Hannay,* 210 Fed. 810; *Cosmos Cotton Co.* v. *First National Bank, supra; Goetz* v. *Bank of Kansas City,* 119 U. S. 551.

In the second line of authority this doctrine of the law merchant seems not to be disputed. The plaintiff's claim in these cases is that the assignment of the bill of lading to the bank is absolute and not as mere security for the draft; that it is an assignment to the bank of the seller's contract. If this be the case, then of course the bank takes the bill of lading subject to any equities existing against the seller. *Munson* v. *De Tamble Motors Co.,* 88 Conn. 415, 91 Atl. 531, L. R. A. 1915A 881. But in the absence of express stipulations to that effect, such is not the usual course of business. The bank does not generally take an absolute title to the bill of lading, but only a special property in it until the draft is satisfied. They hold it only as a pledgee. *Hawkins* v. *Alfalfa Products Co.,* 152 Ky. 152, 153 S. W. 201, 44 L. R. A. (N. S.) 600; *Mason* v. *Nelson, supra; Douglas* v. *People's Bank,* 86 Ky. 176, 5 S. W. 420, 9 Am. St. Rep. 276; *Hall* v. *Keller,* 64 Kan. 211, 67 Pac. 518, 62 L. R. A. 758, 91 Am. St Rep. 209; *Tolerton* v. *Anglo-California Bank,* 112 Iowa 706, 84 N. W. 930, 50 L. R. A. 777.

With the exception of the Mississippi cases, the authorities cited above show that in the usual course of business there is never but one contract relation between the bank and the drawee; and that is the contract that is made when the drawee accepts the draft. This is their only contract and this is discharged when the draft is paid. *Hawkins* v. *Alfalfa Products Co., supra.*

CRIMINAL LAW—SUICIDE—ADMINISTERING POISON TO ANOTHER.—Defendant, at the request of his bed-ridden wife, who was a chronic invalid and wished to end her suffering by ending her life, mixed some paris green with water and placed it at the head of her bed within her reach.